

Chapter 9

Warehousing

1. Introduction:

- 1.1 There are instances when the importer does not want clearance of the imported goods immediately due to factors such as market price, salability, requirement in the factory of production, paucity of funds etc. The importer would prefer to warehouse such goods till they are required. Some imported goods are also warehoused for supplies to EOU/EHTP/STP/SEZ units. Goods imported for sale in Duty Free Shops at International Airports are also warehoused before being sold to international travellers. Thus, the Customs Act, 1962 contains specific provisions that facilitate the warehousing of imported goods. The imported goods after landing may be allowed to be removed to a warehouse without payment of duty and duty is paid at the time of clearance from the warehouse. Provisions lay down the time period up to which the goods may remain in a warehouse, without incurring any interest liability and thereafter, with interest liability.

2. Legal provisions:

2.1 The facility of warehousing of the imported goods in Custom Bonded Warehouses, without payment of Customs duty is permitted in terms of Chapter IX of the Customs Act, 1962. Further, where necessary the Manufacture and Other Operations in Warehouse Regulations, 1966 provide the procedure to be followed for manufacture under bond. On their part, Warehoused Goods (Removal) Regulations, 1963 provide the procedure for movement of the goods from one warehouse to another.

3. Warehousing Stations:

- 1.1 Public or Private bonded warehouses can be operated only at places which are declared as warehousing stations under Section 9 of the Customs Act, 1962. This also applies to the operations in Customs bonded warehouses like EOU/EHTP/STP units.
- 1.2 As per provisions of Section 9 of the Customs Act, 1962, Board may declare places as warehousing stations at which alone public warehouses may be appointed and private warehouses may be licensed. Board has vide Notification No. 34/94 (NT)- Cus, dated 1-7-1994 delegated these powers to the Chief Commissioners of Customs or Chief Commissioners of Customs and Central Excise, as the case may be. Also, in respect of setting up of EOUs, the powers for declaring places as warehousing stations have been delegated to the jurisdictional Commissioner of Customs or Commissioner of Customs and Central Excise, as the case may be.
- 1.3 The following guidelines shall be followed for ensuring uniformity in practice in the declaration of places as warehousing stations:
- (a) The industrial development of the proposed area and the need for warehousing of the imported goods shall be assessed.
 - (b) Only those places shall be declared as warehousing stations where adequate facilities are available for appointing public bonded warehouses. However, this condition shall be relaxed only in case of EOUs.

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- (c) Adequate Customs/Central Excise staff is available in the vicinity of the proposed warehousing stations and arrangements for training of the staff from NACEN or by attachment in the nearest Custom House should be made.
- (d) Requests not fulfilling aforesaid criteria but if it is considered that there is a strong justification for declaring a place as a warehousing station shall be referred to the Board for decision.

[Refer Circular No. 473/232/88-Cus VIII, dated 28-11-1988 and F.No.473/25/91-Cus IV, dated 30-5-1991]

4. Appointment of Public Warehouses:

- 4.1 Section 57 of the Customs Act, 1962 provides that at any warehousing station, the Assistant Commissioner of Customs or Deputy Commissioner of Customs, may appoint public warehouses wherein dutiable goods may be deposited. Other than CWC and SWCs, private operators can also be appointed as custodians of the Public Warehouses. In case of Private owned Public Warehouses there is a requirement of Cash deposit or Bank guarantee equal to 25% of the duty in respect of sensitive goods.
- 4.2 All the applications for custodianship of Public Warehouses shall be carefully scrutinized and due consideration shall be given to the following criterion for their appointment:
 - (a) Feasibility and financial viability of the warehouse operator, his financial status and his expertise in warehousing field;
 - (b) Past record of the applicant in complying with the provisions of the Customs and Central Excise Laws:
 - (c) The operational requirements such as suitability and security of the premises, availability of customs expertise, proximity to the users etc. shall be taken into account;
 - (d) The applicant should agree to take the services of the Customs Officer on Cost-Recovery basis, if services of the Customs Officers are required on a continuous basis or on payment of Merchant Overtime/Supervision Charges, as the case may be Licensing of Private Warehouses.

5. Appointment of Private Warehouses:

- 5.1 As per Section 58 of the Customs Act, 1962, at any warehousing station, the Assistant Commissioner of Customs or Deputy Commissioner of Customs may license private warehouses for depositing without payment of duty following types of goods:
 - (i) Dutiable goods imported by the licensee; or
 - (ii) Dutiable goods imported on behalf of the licensee; or
 - (iii) Any other goods imported by other importers in respect of which specialized storing / handling facilities are required and such specialized storing /handling facilities for deposit are not available in a public warehouse. The specialized facilities are like liquids in bulk, hazardous goods, explosive goods, goods requiring controlled temperature conditions etc.

5.2 The main conditions for granting Private Bonded Warehouse licences are:

- (i) The applicant is financially sound and credible and the proprietor or partner or any of the Directors have not been involved in any Customs or Central Excise duty evasion cases or smuggling offences and have not been subject to penalty or other action under the Customs Law and similarly under the Central Excise Law. Where the applicant is involved in such cases (other than technical offences), licences shall be denied even if such offences were committed before five years;
- (ii) The premises are suitable and adequately secured against theft, pilferage and other risks; fire fighting equipments shall be installed in the warehouse;
- (iii) The premises shall be accessible to the Customs officers for verification;
- (iv) The warehouse shall not be located in residential area; and
- (v) The goods deposited in the warehouse shall be fully insured against theft, pilferage, fire accident, other natural calamities, risk against rioting etc. by a comprehensive insurance policy drawn in favour of Commissioner of Customs or Central Excise, as the case may be.

[Refer Circular No. 28/96-Cus, dated 14-5-1996]

6. Licences for storage of sensitive and non-sensitive goods:

6.1 It is for the concerned Commissioner to decide as to whether a product is sensitive or not depending upon rates of duty, licencing aspects and nature of the commodity. Thereafter the following conditions shall apply for issue of licences for Private Bonded Warehouses in respect of sensitive and non-sensitive goods:

- (a) **For sensitive goods** the applicants should produce a solvency certificate (not a reference or confidential letter) from a Scheduled bank of repute (i.e. other than a co-operative bank or a bank which has operation limited to a city) for a value not less than Rs. 50 lakhs. Further, in case of individual consignments to be warehoused, a bond as per Section 59 of the Customs Act, 1962 for a sum equal to twice the duty leviable on the goods should be given backed by bank guarantee/ cash deposit of 25% of the duty liability for each consignment. Also, if the licensee desires to give bond for a number of consignments, a revolving bond may be taken subject to cash deposit/bank guarantee of 25% of the duty involved on the goods brought for storage in the warehouse. This requirement would be applicable not only to Private Bonded Warehouses but to private owned Public Bonded Warehouses as well.
- (b) **For non-sensitive goods** the applicants for Private Bonded Warehouses are exempt from requirement of furnishing solvency certificate. However, they shall be solvent for an amount of Rs.10 lakhs and should possess a good record. The double duty bond as per Section 59 of the Customs Act, 1962 shall be sufficient for bonding of non-sensitive goods without a cash deposit/bank guarantee. However, if concerned Assistant/Deputy Commissioner of Customs is not satisfied about the transactions of a particular licensee, a suitable bank guarantee may be obtained.
- (c) As a measure of relaxation to the Central/State Government Undertakings, all Central and State Public Sector Undertakings shall be exempt from furnishing Bank

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guarantee or other form of security for storing sensitive goods in the duty free shops operated by them. The execution of a double duty bond and other requirements would, however, remain.

[Refer Circulars No. 99/95-Cus, dated 20-9-1995, No.20/96-Cus, dated 4-4-1996, No. 13/02-Cus., dated 22-2-2002, No. 34/02-Cus., dated 26-6-2002, No.18/2007-Cus, dated 24-4-2007 and No. 26/2012 dated 10-09-2012]

7. Cancellation/suspension of licences for Private Bonded Warehouses:

7.1 Section 58(2) of the Customs Act, 1962 provides that the Assistant/Deputy Commissioner of Customs may cancel a license, if the licensee has contravened any of the provisions of the said Act or the rules or regulations or committed breach of any of the conditions of the license after giving a reasonable opportunity of being heard.

7.2 Pending an enquiry regarding cancellation of a license, the Assistant/Deputy Commissioner of Customs may suspend the license.

8. Warehousing Bond:

8.1 The importer of any goods who wants to store the goods in a warehouse is required to file an into-bond Bill of Entry at the place of import and get it assessed to duty. For warehousing the goods in a Public Bonded Warehouse or a Private Bonded Warehouses, the importer as per Section 59 of the Customs Act, 1962 is required to execute a bond for a sum equal to twice the amount of the duty assessed on such goods. The terms of the bond are as under:

- (i) To observe all the provisions of the Customs Act, 1962 and the rules and regulations in respect of such goods;
- (ii) To pay on or before a date specified in a notice of demand:
 - (a) All duties, and interest, if any, payable under Section 61(2) of the Customs Act, 1962; and
 - (b) Rent and charges claimable on account of such goods under the Customs Act, together with interest on the same;
- (iii) To discharge all penalties incurred for violation of the provisions of the Customs Act and the rules and regulations in respect of such goods.

8.2 Importer may enter into a general bond in such amount as the Assistant/Deputy Commissioner of Customs may approve in respect of the warehousing of goods to be imported by him within a specified period.

8.3 A bond executed by an importer in respect of any goods shall continue in force even if the goods are transferred to any other person or removed to another warehouse. However, if the whole of the goods or any part thereof are transferred to another person, the proper officer may accept a fresh bond from the transferee in a sum equal to twice the amount of duty assessed on the goods transferred and thereupon the bond executed by the transferor shall be enforceable only for a sum mentioned therein less the amount for which a fresh bond is accepted from the transferee.

9. Permission for deposit of goods in a warehouse:

- 9.1 After assessment of the into-bond Bill of Entry and execution of the bond by the importer, the proper officer may make an order permitting the deposit of the goods in a warehouse.
- 9.2 The goods should be stored in a Bonded Warehouse only after due examination. Reverse of the Bill of Entry must conform the veracity of the declared description with distinctive identification marks of the subject goods.

10. Period for which goods may remain warehoused:

- 10.1 As per section 61 of the Customs Act, 1962, the warehousing period of goods deposited in a warehouse or in any other warehouse to which they may be removed, is as under:
- (i) Capital goods intended for use in any EOU, may be kept for five years;
 - (ii) Goods other than the capital goods intended for use in any EOU, may be kept for three years;
 - (iii) Any other goods may be kept for one year. However, if the goods are likely to deteriorate, the period of one year may be reduced by the Commissioner of Customs to such shorter period as he may deem fit:

11. Extension of warehousing period:

- 11.1 In the case of any goods which are not likely to deteriorate, the warehousing period, on sufficient cause being shown, be extended-
- (i) In the case of such goods intended for use in any EOU, by the Commissioner of Customs, for such period as he may deem fit;
 - (ii) In any other case, by the Commissioner of customs, for a period not exceeding six months and by the Chief Commissioner of Customs for such further period as he may deem fit.
- 11.2 The extension of warehousing period is not granted as a matter of routine and there should be valid grounds for granting extensions. The prescribed guidelines in this regard are as follows:
- (i) Extension shall be granted only if the authority granting the extension is satisfied that the goods are not likely to deteriorate during extended period. Wherever necessary, goods should be got tested to ensure quality and fitness for further extension of warehousing period.
 - (ii) Lack of finance to pay the duty is not necessarily a good ground for granting extension of warehousing period.
 - (iii) Depending on the circumstances of the case, requests made to the Chief Commissioners for extension in warehousing period, beyond the extension granted by the Commissioners of Customs, may be considered for the shortest period, not exceeding three months at a time. Such extensions are to be granted after due circumspection only in deserving cases.
 - (iv) The requests for extension for a period beyond six months at the Chief Commissioner's level may be considered only in respect of those cases where it is really warranted

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that the goods have to be kept in the warehouse under circumstances beyond the control of the importer viz. closure of the factory due to strike, lock-out, natural calamities, etc. Financial constraints of the importers are not to be considered as adequate ground for granting extension of warehousing period.

- (v) Before consideration of a request for extension of warehousing period, Custom Houses should ensure that the interest accrued on the goods in the preceding period are paid by the applicants before further extension is permitted. Interest thus collected will be adjusted against the interest finally payable.
- (vi) A liberal approach may, however, be adopted in granting extension of warehousing period in respect of the following cases provided the goods are in good condition and not likely to deteriorate during the extended period of warehousing:
 - (a) Goods supplied as ships stores/aircraft stores,
 - (b) Goods supplied to diplomats,
 - (c) Goods warehoused and sold through duty free shops,
 - (d) Goods imported by EOUs,
 - (e) Goods used in the units operating under manufacture-in-bond scheme,
 - (f) Machinery, equipments and raw materials imported for building and fitment to ships.
- (vii) The applications for extension of warehousing period shall, as far as possible, be filed prior to 15 days of expiry of the warehousing period. All such requests should normally be decided by the Customs within this period. The requests for grant of extension of warehousing period can be considered after the expiry of initial or extended period of warehousing, after taking into consideration the exceptional circumstances of the cases, nature of commodity, rate of duties, particularly, whether the same could result in loss of revenue to Government, licencing aspects involved etc.
- (viii) In case an importer makes a request to permit re-export of the goods under Section 69 of the Customs Act, 1962, the same may be allowed even if the permitted period for bonding has expired and demand notice issued under Section 72, or it has been decided to put the goods under auction. Before permitting re-export, however, it will be necessary to extend the period of warehousing under Section 61 of the Customs Act, 1962 to enable the importer to export the goods within the permitted period of warehousing. Chief Commissioners would consider/decide such requests from the importers taking into consideration all the relevant rules/ regulations for export.

[Refer Circulars No.473/232/88-Cus VII, dated 28-11-1988, No.12/98-Cus, dated 6-3-1998, F.No.473/77/89-Cus VII, dated 9-10-1989, No. 47/02-Cus, dated 29-7-2002 and No.3/2003-Cus, dated 14-1-2003]

12. Interest for storage beyond permissible period:

- 12.1 In the event the warehoused goods remain the warehouse beyond the initial warehousing period on account of extension or otherwise, interest is payable on the duty, if any, payable on the goods at the time of their clearance from the warehouse. The rate of interest

is specified vide a notification issued under Section 47 of the Customs Act, 1962. The interest on warehoused goods will be payable in the following situations:

- (i) If the capital goods for use by EOUs are warehoused for a period beyond 5 years or goods other than the capital goods for use by EOUs are warehoused for a period beyond 3 years, by reason of extension of the aforesaid period or otherwise;
- (ii) If goods other than the goods for use by EOUs remain in a warehouse beyond a period of ninety days.

12.2 The current rate of interest for warehousing of the goods beyond specified period as per Notification No.28/02(NT)-Cus, dated 13-5-2002 issued under Section 47(2) of the Customs Act, 1962 and Notification No.18/03-Cus, dated 1-3-2003 issued under Section 61(2)(ii) of the said Act is 15% per annum.

12.3 As per sub-section 2(ii) of Section 61 of the Customs Act, 1962, where any warehoused goods specified in sub-clause (b) of sub-section (1) of Section 61 remains in a warehouse beyond a period of 90 days, interest shall be payable at such rate as fixed by the Board, on the amount of duty payable at the time of clearance of the goods in accordance with the provision of Section 15 on the warehoused goods for the period from the expiry of the said 90 days till the date of payment of duty on the warehoused goods. The period of 90 days, under Section 61(2)(ii) of the Customs Act, 1962, would commence from the date of deposit of goods in the warehouse.

[Refer Circular No. 39/2013-Cus., dated 1-10-2013]

12.4 No interest is liable to be paid in terms of the provisions of Section 47(2) of the Customs Act, 1962 on goods deposited in a warehouse and being cleared for home consumption by filing the Bill of Entry prescribed under Section 68 of the Act, *ibid*, for delayed payment of duty. In other words, the provision for payment of interest if the importer fails to pay the duty within 2 working days from the date on which such Bill of Entry is returned to him for payment of duty are not attracted in case of clearances made under Section 68 of the Act *ibid*.

13. Waiver of interest:

13.1 As per Section 61(2) of the Customs Act, 1962, Board may, in exceptional cases, waive the whole or part of any interest payable in respect of any warehoused goods. Board may also by a notification, specify the class of goods in respect of which no interest shall be charged. Accordingly, the interest on warehoused goods imported by EOUs/EHTP/STP units is exempt vide Notification No. 67/95-Cus.(NT), dated 1-11-1995.

13.2 The powers of waiver of interest on Customs duty warehoused goods upto a limit of Rs. 2 crores have been delegated by the Board to the Chief Commissioners of Customs and Central Excise vide Notification No.122/2004-Cus.(NT), dated 25-10- 2004. All requests for waiver of interest on Customs duty on warehoused goods are to be received at the Commissionerates and where amount of interest is not within the delegated powers of Chief Commissioner of Customs, forwarded to the Board with comments for consideration.

13.3 Guidelines have been laid down for considering requests for interest waiver by the Chief Commissioners. Thus, the interest may be waived for following types of goods stored in a warehouse beyond the permissible storage period:

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- (i) Goods supplied as ship stores/aircraft stores
 - (ii) Goods supplied to diplomats
 - (iii) Goods used in the units operating under manufacture-in-bond scheme
 - (iv) Goods imported by EOUs
 - (v) Goods warehoused and sold through duty free shops
 - (vi) Machinery, equipment and raw materials imported for building and fitment to ships
 - (vii) Petroleum products
 - (viii) Plant and Machinery imported for projects
 - (ix) Machinery, equipment and raw-materials imported for manufacture and installation of power generation units
 - (x) Goods imported under OGL and warehoused for subsequent clearance against valid advance licences/Import-Export Pass Book Scheme or any similar scheme
 - (xii) Goods imported in bulk by canalizing agencies/public sector trading or service agencies and warehoused for subsequent release for export production
 - (xii) Imports under EPCG Scheme
 - (xiii) Import of Capital Goods by Public Sector Undertakings
- 13.4 In respect of above category of cases relating to export promotion, the demand for interest shall be raised by the Customs officers but shall not be enforced immediately. Further, the request of waiver of interest from EOUs shall be considered only at the time of de-bonding of the unit.
- 13.5 Cases not covered by the guidelines mentioned above should be referred to the Board for decision.
- 13.6 With regard to the issue as to whether interest is payable in case of export of warehoused goods under Section 69 of the Customs Act, 1962, Board has adopted the ratio of Hon'ble Supreme Court's judgment in the case of M/s. Pratibha Processors vs. UOI [1996 (88) E.L.T. 12 (SC)], wherein the Apex Court held that the interest on warehoused goods is merely an accessory of the principal and, if the principal is not recovered/payable, so is the interest on it. The interest under Section 61(2) of the Customs Act, 1962 has, thus, no independent or separate existence.
- 14. Control over warehoused goods:**
- 14.1 All warehoused goods shall be subject to the control of the proper officer of Customs and no person shall enter a warehouse or remove any goods therefrom without the permission of the proper officer.
- 14.2 The proper officer may cause any warehouse to be locked with the lock of the Customs Department and no person shall remove or break such lock.
- 14.3 The proper officer shall have access to every part of a warehouse and power to examine the goods therein.

15. Payment of rent and warehouse charges:

- 15.1 The owner of any warehoused goods shall pay to the warehouse-keeper rent and warehouse charges at the rates fixed under any law for the time being in force or where no rates are so fixed, at such rates as may be fixed by the Commissioner of Customs.
- 15.2 If any rent or warehouse charges are not paid within ten days from the date when they became due, the warehouse-keeper may, after notice to the owner of the warehoused goods and with the permission of the proper officer cause to be sold (any transfer of the warehoused goods notwithstanding) such sufficient portion of the goods as the warehouse-keeper may select.

16. Owner's right to deal with warehoused goods:

- 16.1 With the sanction of the proper officer and on payment of the prescribed fees, the owner of any goods may either before or after warehousing the same:
- (i) inspect the goods;
 - (ii) Separate damaged or deteriorated goods from the rest;
 - (iii) Sort the goods or change their containers for the purpose of preservation, sale, export or disposal of the goods;
 - (iv) Deal with the goods and their containers in such manner as may be necessary to prevent loss or deterioration or damage to the goods;
 - (v) Show the goods for sale; or
 - (vi) Take samples of goods without entry for home consumption, and if the proper officer so permits, without payment of duty on such samples.

17. Manufacture and other operations in relation to goods in a warehouse:

- 17.1 Section 65 of the Customs Act, 1962 provides for manufacture under bond and all the EOU/EHTP/STP units work under this provision. There are also several exporters who import the goods for repairs, re-conditioning etc. and then export and such exporters also work under the said Section 65. This activity is referred to as manufacturing and other operations in Bonded Warehouses and the procedure for such manufacturing operations is prescribed as per the "Manufacture and Other Operations in Warehouse Regulations, 1966".
- 17.2 The owner of any warehoused goods intending to undertake any manufacturing process or other operations in the warehouse is required to make an application to the Assistant/ Deputy Commissioner of Customs in the proper form and furnish following information:
- (i) Nature of the manufacturing process or other operations;
 - (ii) Particulars of imported and other goods proposed to be used in the manufacturing process or other operations;
 - (iii) Detailed plan and description of the warehouse; and
 - (iv) Data regarding the volume of trade anticipated of the manufacturing process or other operations.

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- 17.3 The warehouse owner is required to execute a bond with the Assistant/Deputy Commissioner of Customs, binding himself to:
- (i) Observe all the provisions of Manufacture and Other Operations in Warehouse Regulations, 1966;
 - (ii) Maintain detailed accounts of all imported and other goods used in the manufacturing process or other operations in the proper form and to produce such accounts for inspection by the proper officer;
 - (iii) Submit detailed statements of all imported and other goods used in the manufacturing process or other operations and those remaining in stock, at any time the proper officer directs;
 - (iv) Provide to the officers of Customs office space, wherever required, and access to warehouse, for control and supervision of the manufacturing process or other operations or imported and other goods as may be specified by Assistant/Deputy Commissioner of Customs;
 - (v) Pay all the charges including pay, allowances, leave and pensionary charges of such officers as may from time to time be posted by the Assistant/Deputy Commissioner of Customs in the warehouse for supervision and control of the manufacturing process or other operations, or imported and other goods; and
 - (vi) Comply with such conditions as may be imposed by the D.C./A.C. of Customs from time to time for carrying out the purposes of Manufacture & Other Operations in Warehouse Regulations, 1966 and the Act.
- 17.4 After execution of the bond, Assistant/Deputy Commissioner of Customs shall accord sanction to the applicant to carry on such manufacturing process or other operations. He should specify the following aspects in the permission:
- (i) The manufacturing process or other operations to be carried on;
 - (ii) The types and nature of imported and other goods permitted to be used;
 - (iii) The period for which the sanction is valid;
 - (iv) The conditions, if any, subject to which the manufacturing process or other operations may be carried on;
 - (v) The input-output norms, wherever considered necessary, for the raw materials and the finished goods.
 - (vi) Determine the number of Customs officers that may be attached to the warehouse for purposes of supervising the manufacturing process or other operations; and
 - (vii) Fix the sum payable by the manufacturer towards the cost of such establishment and the extra charges payable towards the overtime services, if any, performed by such establishment at the request of the manufacturer.
- 17.5 The manufacturer is required to maintain accounts relating to stocks, raw materials, goods in process, finished goods, waste and refuse in proper form. However, the accounts maintained by the manufacturer may be accepted, if same contain minimum requirements.

- 17.6 The Chief Commissioner of Customs may direct a manufacturer to get the accounts of his warehouse, office, stores, godowns, factory, depot, or other establishment audited by a Cost Accountant, nominated by him in this behalf. The expenses of such audit are determined by the Chief Commissioner and paid by the manufacturer and in default of such payment shall be recoverable from the manufacturer in the manner provided in Section 142 of the Customs Act, 1962. The manufacturer shall be given a copy of the audit report and he may make a representation.
- 17.7 The Assistant/Deputy Commissioner of Customs may direct the manner in which the imported goods shall be issued from and the unused items received back into stock. Further, the application for issue of imported goods and the vouchers against which the unused items may be returned shall be in the proper form.
- 17.8 If the manufacturer or any person in his employ commits a breach of the provisions of the Customs Act, 1962 or the terms and conditions imposed by or under Manufacture and Other Operations in Warehouse Regulations, 1966 or if the particulars furnished in the application for sanction are false or incorrect/ or if any undertaking given in the bond is not fulfilled, the Assistant/Deputy Commissioner of Customs may, without prejudice to any other action that he may take under the provisions of the Act or these regulations cancel the sanction for carrying on the manufacturing process or other operations after giving reasonable opportunity of being heard.
- 17.9 The waste or refuse arising during the course of manufacture under bond may be disposed by any of the following modes:
- (i) If goods manufactured in bond are exported, import duty on the quantity of the warehoused goods contained in the waste or refuse shall be remitted provided that:
 - (a) Such waste or refuse is either destroyed; or
 - (b) Duty is paid on such waste or refuse as if it had been imported into India in that form.
 - (ii) If goods manufactured in bond are cleared from the warehouse for home consumption, import duty shall be charged on the quantity of the warehoused goods contained in so much of the waste or refuse as has arisen from the operations carried on in relation to the goods cleared for home consumption.
- 18. Transfer of goods from one warehouse to another:**
- 18.1 As per provisions of Section 67 of the Customs Act, 1962, the owner of any warehoused goods may, with the permission of the proper officer, remove the warehoused goods from one warehouse to another warehouse. The procedure as per Warehoused Goods (Removal) Regulations, 1963 is to be followed for removal of goods from one warehouse to another warehouse. The procedure for removal of goods is as per Warehoused Goods (Removal) Regulations, 1963 and the following guidelines apply:
- (i) As per Regulation 2 of Warehoused Goods (Removal) Regulations, 1963, If the goods are transferred within the same metropolitan city, same may be sent under the Customs escort without any bond. However, the cost of supervision is to be paid by the warehouse owner.

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- (ii) If the goods are transferred outside the city, a transit bond is to be taken. As per Regulation 3 of Warehoused Goods (Removal) Regulations, 1963, the transit bond shall be for a sum equal to the import duty leviable on such goods.
 - (iii) The terms of bond as per Regulation 4 shall be that the warehouse owner shall produce re-warehousing certificate within a period of three months otherwise shall pay import duty leviable on such goods.
 - (iv) If transfer takes place within the territorial jurisdiction of Commissioner of Customs and is within a reasonable distance of say 50 Kms. Commissioner of Customs may waive bank guarantee if he is satisfied with the bonafides of the party and goods are sent under customs escort.
 - (v) If the goods are of sensitive nature, Customs duty is to be secured by a transit bond backed by a bank guarantee/cash security for 50% of the duty involved.
 - (vi) If the goods are of non-sensitive nature, Customs duty is to be secured by a transit bond backed by a bank guarantee/cash security for 25% of the duty involved.
 - (vii) Commissioners of Customs may prescribe higher cash deposit/bank guarantee, if they feel necessary in certain cases to safeguard the interests of revenue depending upon the track record of the warehouse owner.
- 18.2 In case of EOUs, the requirement of furnishing bank guarantee has been waived subject to the condition that the jurisdictional Assistant/Deputy Commissioner of Customs/ Central Excise has issued a Procurement Certificate for removal of goods to EOUs. The waiver is due to the fact that the B-17 bond executed by EOUs covers the transit risk also and therefore there is no need of executing a separate transit bond for removal of the goods from a warehouse to an EOU.
- [Refer Circular No.99/95-Cus, dated 20-9-1995]
- 18.3 After transfer of goods from a bonded warehouse, to another bonded warehouse, the Customs officer in-charge of the receiving warehouse is required to send a re-warehousing certificate to the Customs officer in-charge of the warehouse which transferred the goods. If the re-warehousing certificate is not received within a period of three months, the action for recovery shall be taken by enforcing the terms of the transit bond or encashment of bank guarantee.
19. **Clearance of warehoused goods for home consumption:**
- 19.1 The importer of any warehoused goods may clear them for home consumption after filing an ex-bond (Green) Bill of Entry for home consumption and payment of the import duty leviable on such goods alongwith penalties, rent, interest and other charges, if any.
 - 19.2 At the time of actual removal of the goods from the warehouse, the declared description of the goods recorded on warehousing bill of entry, should be tallied with the description declared on the ex-bond (Green) bill of entry.
 - 19.3 As per provisions of Section 15 of the Customs Act, 1962, the rate of duty and tariff value for clearance of the goods from a bonded warehouse shall be the rate of duty and tariff value on the date on which a Bill of Entry for home consumption is presented under

Section 68 of the Customs Act, 1962. The value of the goods is taken as the same as assessed on the into-bond Bill of Entry at the time of warehousing the goods.

- 19.4 The following procedure had been prescribed for clearance of warehoused goods:
- (i) Bills of Entry in which the total value of goods exceeds Rs. 1 lakh should be invariably counter-signed by the Assistant/Deputy Commissioner in charge of the bonded warehouse.
 - (ii) All Bills of Entry covering products noticed for the first time, must be countersigned by the Assistant/Deputy Commissioner.
 - (iii) All ex-bond Bills of Entry in respect of which there is any reassessment done by the Superintendent should be countersigned by the Assistant/Deputy Commissioner.
 - (iv) All Bills of Entry after the clearance of the goods should be immediately sent for post audit.

[Refer Circular No. 473/291/88-Cus VII, dated 3-10-1988]

20. Clearance of warehoused goods for exportation:

- 20.1 Warehoused goods may be re-exported to a place outside India without payment of import duty after filing a Shipping Bill or a Bill of Export and payment of the export duty, if any, penalties, rent, interest and other charges payable in respect of such goods.
- 20.2 Warehoused goods shall be allowed to be re-exported on the following terms:
- (a) On re-export, the exporter realizes full foreign exchange spent on import in freely convertible foreign currency, if the goods were imported on payment in freely convertible foreign currency; and
 - (b) The import in the first instance was not un-authorized or in contravention of the FTP.
- 20.3 It shall be ensured that due to re-export from the bonded warehouses there is no net loss of foreign exchange i.e. value of the goods at the time of re-export shall not be less than the foreign exchange paid at the time of their import. Moreover, if the goods were imported by payment in freely convertible currency, the re-export shall not be allowed against Indian Rupees.
- 20.4 Section 69 of the Customs Act, 1962 provides that if the Central Government is of opinion that warehoused goods of any specified description are likely to be smuggled back into India, it may, by notification in the Official Gazette, direct that such goods shall not be exported to any place outside India without payment of duty or may be allowed to be so exported subject to such restrictions and conditions as may be specified in the notification. In terms of Section 69 of the Customs Act, 1962, the following notifications have been issued:
- (i) Notification No.45-Cus, dated 13-2-1963 provides that the warehoused goods shall not be exported to Bhutan, Nepal, Burma, Sikang, Tibet or Sinkiang, However, the warehoused goods can be exported to Nepal in the following circumstances:
 - (a) If goods are exported against an irrevocable letter of credit in freely convertible currency;

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- (b) If goods are exported for supplies to projects financed by any UN Agency or IBRD Association or ADB or any other multilateral agency of the like nature and for which payments are received in freely convertible currency; and
 - (c) If the specified capital goods are supplied against a global tender invited by HMG of Nepal for which payment is received in Indian Rupees. These goods can be exported only from Jogbani or Raxaul LCS on production of bank certifies of receipt of the payment in freely convertible currency or Indian Rupees, as the case may be.
- (ii) As per Notification No.46-Cus, dated 1-2-1963, export of warehoused goods without payment of import duty in a vessel of capacity less than 1000 tons gross is permitted subject to the condition that the exporter or agent of the vessel executes a bond for an amount equal to the import duty leviable on such goods backed by surety or security and produces a certificate within 3 months from the Customs authorities at port of destination that the goods have been landed at the port of destination.
 - (iii) Notification No.47-Cus, dated 1-2-1963 bans export of warehoused (a) Alcoholic liquors, (b) Cigarettes, (c) Cigars, and (d) Pipe Tobacco without payment of import duty as stores on board a vessel of capacity less than 200 tons gross.

21. Allowance in case of volatile warehoused goods:

- 21.1 Section 70 of the Customs Act, 1962 provides that when any warehoused goods at the time of delivery from a warehouse are found to be deficient in quantity on account of natural loss, the Assistant/Deputy Commissioner of Customs may remit the duty on such deficiency.
- 21.2 Notification No.122-Cus, dated 11-5-1963 issued under Section 70 of the said Act specifies the volatile goods on which duty may be remitted on account of natural loss. These goods are aviation fuel, motor spirit, mineral turpentine, acetone, menthol, raw naphtha, vaporizing oil, kerosene, HSD, batching oil, diesel oil, furnace oil and ethylene dichloride in tanks; liquid helium gas in containers; wine, spirit and beer, all in casks.

22. Audit of Bonded Warehouses:

- 22.1 Bonded warehouses shall be audited by the audit parties once in six months. The audit parties in addition to normal audit of the documents of a warehouse shall pay special attention to the following aspects:
 - (i) Description of goods, nature, number and other relevant particulars mentioned in into-bond Bills of Entry match with ex-bond Bill of Entry.
 - (ii) All the consignments, which continue to lie in a warehouse after expiry of the warehousing period should be taken up for scrutiny in order to guard against deterioration, substitution or other unlawful removal.

[Refer Circular No. 52/98-Cus, dated 27-7-1998]

23. Recovery of duty from bonded warehouses:

- 23.1 The Customs Officer in-charge of the bonded warehouse is required to recover the duty from the warehouse owner in the following cases:

- (i) Where warehoused goods are removed from a warehouse without payment of duty or if transferred to any other warehouse and re-warehousing certificate has not been received within three months period;
 - (ii) Where warehoused goods have not been removed from a warehouse at the expiry of the bonding period;
 - (iii) Where warehoused goods are taken as samples without payment of duty; and
 - (iii) Where any goods which have not been cleared for home consumption or exportation are not duly accounted for to the satisfaction of the proper officer.
- 23.2 The proper officer shall demand, and the owner of such goods shall forthwith pay, the full amount of duty chargeable on account of such goods together with all penalties, rent, interest and other charges payable in respect of such goods.
- 23.3 If any owner fails to pay any amount demanded, the proper officer shall detain and sell, after notice to the owner such sufficient portion of his goods, if any, in the warehouse, as the said officer may select.
- 24. Cancellation and return of warehousing bond:**
- 24.1 When the whole of the goods covered by any bond have been cleared for home consumption or exported or are otherwise duly accounted for, and when all amounts due on account of such goods have been paid, the proper officer shall cancel the bond.
